

Application No.: 10/823,456  
Amendment and Response dated June 3, 2008  
Office Action dated January 10, 2008  
Docket No.: 760-182 RCE  
Page 14

**Remarks/Arguments:**

**Remarks**

Claims 1-57; 59-64; and 79-91 are pending. The Examiner has rejected claims 1-57; 59-64; and 79-91.

The Examiner has rejected claims 1-3, 6, 7, 10-21, 24-29, 31, 32, 35, 36, 38-41, 44-46, 79, 80, 82, 83, 85, 89, and 91 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 4,517,687 to Liebig et. al. (hereinafter Liebig).

The Examiner has rejected claims 4, 5, 8, 9, 22, 23, 30, 33, 34, 37, 42, 43, 47-57, 59-64, 81, 84, 86- 88, and 90 under 35 U.S.C. §103(a) as allegedly being obvious over Liebig in view of U.S. Patent No. 5,800,514 to Nunez et al. (hereinafter Nunez); Liebig in view of U.S. Patent No. 6,352,554 to De Paulis (hereinafter De Paulis); or Liebig in view of U.S. Pat. Appl. No. 2004/93065 to Yachia et al. (hereinafter Yachia).

**Section 102 Rejections**

Claims 1-3, 6, 7, 10-21, 24-29, 31, 32, 36, 38-41, 44-46, 79, 80, 82, 85, 89, and 91 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Liebig. Applicant respectfully traverses.

Liebig is directed to a bifurcated and crimped woven graft as depicted in Fig. 3 of Liebig. Liebig, however, fails to disclose, *inter alia*, that the first bulbous end includes a textile portion having an increased number of warp yarns at a rate of at least three or more warp yarns for every two of said yarns, while the second bulbous end includes a textile portion having a decreasing number of warp yarns at the rate of at least three warp yarns or greater for every two of said fill yarns, as set forth in independent claims 1, 32, and 79.

Thus, Liebig fails to disclose each and every limitation of independent claims 1, 32 and 79. Further, Applicant submits that the dependent claims which depend therefrom are likewise in condition for allowance. Therefore, applicant contends that the claims are patentably distinct

and thus respectfully requests reconsideration and withdrawal of the rejections of claims 1-3, 6, 7, 10-21, 24-29, 31, 32, 36, 38-41, 44-46, 79, 80, 82, 85, 89, and 91 under 35 U.S.C. §102(b).

### **Section 103 Rejections**

Claims 4, 5, 22, 23, 33, 34, 42, 43, 47-56 and 59-64 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Liebig in view Nunez. Applicant respectfully traverses.

Nunez fails to teach or suggest, *inter alia*, a bulbous portion, in particular a generally spherically or oblong portion, as set forth in the independent claims. Moreover, Nunez fails to teach or suggest, *inter alia*, a bulbous portion having a greater number of warp yarns as compared to a contiguous tubular woven portion. Further, Nunez fails to disclose, teach, or suggest, *inter alia*, that the first bulbous end includes a textile portion having an increased number of warp yarns at a rate of at least three or more warp yarns for every two of said yarns, while the second bulbous end includes a textile portion having a decreasing number of warp yarns at the rate of at least three warp yarns or greater for every two of said fill yarns, as set forth in independent claims 1, 32, 49, and 79. Likewise, as previously put forth, Liebig fails to teach or suggest, *inter alia*, the first bulbous end includes a textile portion having an increased number of warp yarns at a rate of at least three or more warp yarns for every two of said yarns, while the second bulbous end includes a textile portion having a decreasing number of warp yarns at the rate of at least three warp yarns or greater for every two of said fill yarns, as set forth in the independent claims, including claim 49.

Further, Applicants continue to assert, as previously argued, that Liebig teaches away from the woven bulbous portion(s) of the present invention having a different diameter and a different number of warp yarns than immediate contiguous woven tubular portion(s). That is, Liebig specifically teaches that “the fabric must be woven in tubular form, either straight, or bifurcated.” (Liebig, column 5, lines 8-9) (emphasis added). Thus, in Liebig, the fabric is first woven, and then crimped into the disclosed form.

As Liebig and Nunez, taken individually or in combination, fail to teach or suggest the recited bulbous portions as presently defined in the independent claims of the subject application, claims 4, 5, 22, 23, 33, 34, 42, 43, 47-56 and 59-64 are patentably distinct over Liebig and Nunez. Reconsideration and withdrawal of the rejections of claims are respectfully requested.

Claims 8, 9, 30, and 37 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Liebig in view of De Paulis. Applicant respectfully traverses.

De Paulis is directed to graft having a tubular first portion 12 and a shaped skirt portion 14 which are joined together suturing or otherwise attaching them to one and the other. (De Paulis, column 6, lines 5-7; column 5, lines 10-11). Thus, assuming *arguendo* that the skirt portion 14 of De Paulis may be construed as a bulbous portion, De Paulis fails to teach or suggest a seamless translation with engagingly interlaced yarns between its two portions. In other words, De Paulis fails to teach or suggest a bulbous portion contiguously woven to a tubular portion as set forth in the independent claims. Further, De Paulis fails to disclose, teach, or suggest that the first bulbous end includes a textile portion having an increased number of warp yarns at a rate of at least three or more warp yarns for every two of said yarns, while the second bulbous end includes a textile portion having a decreasing number of warp yarns at the rate of at least three warp yarns or greater for every two of said fill yarns, as set forth in independent claims 1, 32, 49, and 79. Thus, De Paulis fails to cure the deficiencies of Liebig. As such, claims 8, 9, 30, and 37 are patentably distinct, and are presently in condition for allowance. Therefore, reconsideration and withdrawal of the rejections of claims 8, 9, 30 and 37 under 35 U.S.C. §103(a) are respectfully requested.

Claim 57 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Liebig in view of Nunez in further view of De Paulis. Claim 57 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Liebig in view Nunez and in further view of De Paulis. Applicant respectfully traverses. As discussed above, Liebig, Nunez and De Paulis fail to teach or suggest the present invention as set forth in independent claim 49. It is therefore respectfully submitted that Liebig, Nunez and De Paulis, individually or in combination, fail to teach or

suggest the present invention. Reconsideration and withdrawal of the rejection of claim 57 under 35 U.S.C. §103(a) is respectfully requested.

Claims 81, 84, and 90 are rejected as allegedly being unpatentable over Liebig in view of Yachia. Applicant respectfully traverses. Yachia is directed to an endoluminal lining that fluctuates to allow the lining to continuously conform to the shape of the lumen. Yachia's lining is specifically described as being an undulating helix of a metal filament. (Yachia, par. [0029]). However, Yachia does not disclose, teach, or suggest a generally spherical or oblong bulbous portion, that the bulbous portion has a greater number of warp yarns than the end portions, or more specifically, that the bulbous woven portion includes a first bulbous end and a second bulbous end, the first bulbous end including a textile portion having an increased number of warp yarns at the rate of at least three or more warp yarns for every two of said yarns and the second bulbous end including a textile portion having a decreasing number of warp yarns at the rate of at least three warp yarns or greater for every two of said fill yarns. Further, Yachia fails to teach or suggest a device that includes woven yarns. The device of Yachia is a metallic stent. Thus, Yachia clearly fails to teach or suggest a shaped woven textile implantable device. As such, Yachia does not teach, disclose, or suggest the elements of the independent claims. As above, neither does Liebig teach or suggest these elements. As such, claims 81, 84, and 90 are patentably distinct, and in condition for allowance. Reconsideration and withdrawal of the rejection of claim 57 under 35 U.S.C. §103(a) is respectfully requested.

Claim 87 is rejected as allegedly unpatentable over Liebig in view of Nunez as applied to Yachia. Applicant respectfully traverses. As discussed above, Liebig, Nunez and Yachia fail to teach or suggest the present invention as set forth in independent claim 79. It is therefore respectfully submitted that Liebig, Nunez and De Paulis, individually or in combination, fail to teach or suggest the present invention as disclosed in claim 87. Reconsideration and withdrawal of the rejection of claim 87 under 35 U.S.C. §103(a) is respectfully requested.

Application No.: 10/823,456  
Amendment and Response dated June 3, 2008  
Office Action dated January 10, 2008  
Docket No.: 760-182 RCE  
Page 18

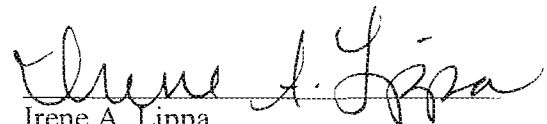
**Summary**

Therefore, Applicants respectfully submit that independent claims 1, 32, 49 and 79, and all claims dependent therefrom, are patentably distinct from the references cited, taken individually and in combination. This application is believed to be in condition for allowance. Favorable action thereon is therefore respectfully solicited.

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Irene A. Lippa".

Irene A. Lippa

Registration No.: 60,712

Attorney for Applicants

HOFFMANN & BARON, LLP  
6900 Jericho Turnpike  
Syosset, New York 11791  
(973) 331-1700